



KAW NATION

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August 5, 2006

National Indian Gaming Commission
Attn: Penny Coleman, Acting General Counsel
1441 L Street, NW, Suite 9100
Washington, DC 20005

Re: Comments on Class II Classification Standards

Dear Ms. Coleman:

Please accept the following as our written comments regarding the above topic. We look forward to the opportunity of the government-to-government consult on August 8, 2006 affording us the opportunity to express our concerns directly to the Commissioners.

To the point of this proposed rule, we viewed the NIGC as having the dual role of regulation and promotion of the Indian gaming industry. It is our contention that the proposed rule does not reflect the Mission statement of NIGC to ensure that Indian tribes are the primary beneficiaries of gaming revenue and the Declaration of Policy as stated in IGRA for Indian gaming being a means of promoting Tribal economic development is not furthered by the rule and has become secondary to other concerns. We believe that regulation and promotion are parallel objectives that can reside in a single agency as is clearly exhibited by the Federal Aviation Administration (FAA) in the promotion of civil aeronautics and safety standards.

It appears the proposed rule continues to bear significant influence from the Department of Justice who clearly does not have a role of promotion of any industry and further is punitive in nature as opposed to being oriented towards the civil powers exercised to encourage compliance standards. We contend that Congress reserved Indian gaming matters exclusively for NIGC.

Unfortunately the proposed rule attempts to disregard or digress from the vast changes due to industry innovations and improvements presently in existence that technology has brought to Class II Indian gaming. To digress to essentially "paper bingo standards" is likened to the FAA issuing a rule that all present commercial aircraft must revert to nothing more exotic than the DC-3 airplane (a vintage WWII workhorse) and further you can only board one passenger per minute (*a parallel to establishing the time frame to push a button on a Class II machine*).

Further we fail to see what service is offered to the Public by mandating that at least half of the

plane be painted and displayed four foot high letters that inform a traveler that, "we apologize but regulation requires this be a slow moving aircraft." Obviously, we question how such proposed regulation furthers or promotes the Mission of NIGC or the Indian gaming industry.

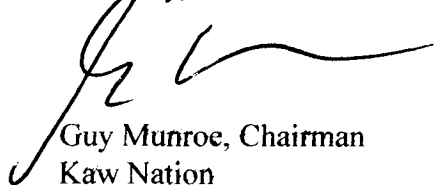
Addressing the point that we see the potential deterioration of NIGC's Mission of tribes being the primary benefactor, please consider our particular situation that is probably universal. The Kaw Nation is a party to a Tribal/State Compact agreement, approved by NIGC. By market design we have both Class II and Class III devices in our facility letting the market (our Patrons) establish which devices are enjoyed by a vote expressed in dollars. We anticipate the digression from the present Class II technical innovations would cause a market shift to predominately Class III devices. The effect of that shift would be the lessening of our income to the benefit of the State of Oklahoma. Further if that shift causes us to be predominantly a Class III facility, we lessen our ability to negotiate future terms with the State of Oklahoma. The present State negotiation process bears little semblance to a "true negotiation" as it is largely a "take it or leave it" process that would be totally non-existent with implementation of the proposed rules.

In conclusion and in general, we do not find the disregard and digression of technical advances, to be healthy for any industry and more particularly to that of Indian gaming. We see the proposed rules as being detrimental to the shared roles of NIGC and the Kaw Nation in promoting economic development providing no furtherance of NIGC's Mission of shielding tribes from organized crime and other corrupting influences and assurances that gaming is conducted fairly and honestly by both the operator and the players.

While technological advancements being applied to traditional paper bingo may cause less distinction between the two Classes of gaming, we do not see that progression as a negative factor. The American way is to build a better mouse-trap.

We respectfully request such proposed rules not be implemented and that NIGC adopt at least present day technical advances.

Sincerely,



Guy Munroe, Chairman
Kaw Nation